

# Wilson Peak Land Exchange Decision Notice and Finding of No Significant Impact

U.S. Forest Service

Norwood, Gunnison and Dolores Ranger Districts

Grand Mesa, Uncompahgre and Gunnison National Forests and San Juan National Forest  
San Miguel, Dolores, Gunnison and Saguache Counties

## *INTRODUCTION*

The Wilson Peak Land Exchange proposal came about primarily because of the Forest Service's goal of acquiring the Wilson Peak Mining Claims, which are held in private ownership by the Trust for Public Land (TPL) within and adjacent to the Lizard Head Wilderness. Between 2004 and 2011 several events occurred relating to access to Wilson Peak via the Silverpick Trail including a previous landowner closing access to the public and subsequently land being purchased by TPL. In 2011, further conversations occurred with TPL, Skyline Ranch Trust, LLC and Alta Lakes, LLC (collectively referred to throughout the remainder of this document as the "Non-Federal Parties") on a potential land exchange that would allow the Forest Service to acquire the Wilson Peak Mining Claims and other lands of interest to the agency. Later that year the Non-Federal Parties submitted the land exchange proposal to the Forest Service. In 2013, a Feasibility Analysis was prepared by the Grand Mesa, Uncompahgre and Gunnison National Forest (GMUG) and approved by the Forest Service's Rocky Mountain Regional Office; the Forest Service and the Non-Federal Parties signed an Agreement to Initiate (ATI) for a land-for-land exchange.

## *PURPOSE AND NEED FOR LAND EXCHANGE*

A summary of the purpose and need for my decision is to acquire land to:

- Restore access to the popular fourteener, Wilson Peak.
- Remove non-federal inholdings within or adjacent to upper-tier Colorado Roadless Areas, Congressionally-designated wilderness areas, or areas that are proposed to be designated wilderness.
- Acquire non-federal lands within designated wilderness areas and roadless areas designated by the 2012 Colorado Roadless Rule.
- Eliminate non-federal inholdings that are surrounded by National Forest System (NFS) lands.
- Enhance recreational access along and near the Boomerang Road (NFSR 627) north of the Alta Lakes area, which is a popular area for hikers, bicyclists, cross country skiers and other high-country enthusiasts.
- Reduce risk of future development to sub-alpine and alpine environments to preserve current and potential habitat for federally listed and forest sensitive species.
- Acquire the properties to enhance habitat for the Canada lynx, which is a federally listed species.

And to convey lands that are adjacent to privately-owned lands which are desirable by the Non-Federal Parties and appear to have few or less important natural resources or other values important to the Forest Service or the public.

### **DECISION**

The Wilson Peak Land Exchange Environmental Assessment (EA) documents the environmental analysis and conclusions upon which this decision is based.

Based upon my review of the EA, project file and technical appraisal review reports, as Forest Supervisor of the Grand Mesa, Uncompahgre and Gunnison National Forests, I have determined that the Wilson Peak Land Exchange is in the public interest per the requirements of 36 CFR 254.3 (b)(2). The land exchange supports the direction and guidance in the GMUG Land and Resource Management Plan. I have decided to implement the land exchange through Alternative 3 as detailed in the EA. Alternative 3 approves the exchange as proposed and formalizes a network of National Forest System Trail(s) (NFST) that connects existing trails within the Telluride Ski Area to trails near Sunshine Campground. An additional alternative (Proposed Action-Alternative 2) is detailed in the EA; however, the alternative I have selected incorporates all features of the Proposed Action and responds to additional public concerns regarding recreation opportunities in the area. The details of my decision are listed below.

In exchange for four parcels that contain approximately 301.2 acres of reserved public domain status National Forest System (NFS) lands, the United States of America will acquire four or five parcels of non-federal land that contain 680.7 or more acres (depending on surveys and final appraisal values) from the Non-Federal Parties as described in the tables below. The exchange is an equal value land exchange, where the values of the NFS parcels match the values of the private parcels.

Property, including minerals, that the United States will exchange includes: Federal Parcels 1, 2, 3 and 4 (Maps are found in EA, Appendix A). Exchange properties are described in Table 1.

**Table 1. Federal Parcels Exchanged**

Name	Legal Description (N.M.P.M.)	Size (acres)
Federal Parcel 1: Skyline Ranch East	T. 42 N., R 9 W.	35.7
Federal Parcel 2: Skyline Ranch South	T. 42 N., R 9 W.	138.1
Federal Parcel 3: Alta	T. 42 N., R 9 W.	87.1
Federal Parcel 4: Wilson Mesa	T. 42 N., R 10 W.	40.3

Property, including minerals<sup>1</sup>, that the United States will acquire in order of priority include: Non-Federal Parcels A, E1-E5, C, B and possibly portion(s) of D (Maps are found in EA, Appendix A). The Forest Service hopes to acquire some of the mining claims owned by TPL in the Yellow Mountain area (Non-Federal Parcel D); the exact number of acres is unknown pending approval of final appraised values and the availability of federal funds to equalize values between the federal and non-federal parcels. Acquired properties are described in Table 2.

**Table 2. Non-Federal Parcels Acquired (in Order of Priority to Acquire)**

Name	Legal Description (N.M.P.M.)	Size (acres)
Non-Federal Parcel A: Wilson Peak Mining Claims	T. 42 N., R 10 W. & T. 41 N., R 10 W.	180.2
Non-Federal Parcel E (1-5): Alta Lakes	T. 42 N., R 9 W.	278.0
Non-Federal Parcel C: Eddiesville	T. 43 N., R 1 E.	39.2
Non-Federal Parcel B: Weaver Mining Claims	T. 42 N., R 10 W.	20.7
Non-Federal Parcel D: Miles Mining Claims <sup>1</sup>	T. 41 N., R 9 W.	162.6
<sup>1</sup> The Forest Service expects to acquire some of the mining claims owned by TPL in the Yellow Mountain area; the exact number is unknown pending final appraised values and the availability of federal funds to equalize values between the federal and non-federal parcels.		

<sup>1</sup> Minerals under Parcels A, B, D, and E are not being acquired directly by United States as part of land exchange; however, they will be donated to the United States concurrent with closing resulting in the United States receiving the mineral estate.

My decision for the lands acquired by the United States includes the following uses and recognized interests:

- Public access easements will be granted to the United States for the portions of the Alta Lakes Road (NFSR 632) and the Boomerang Road (NFSR 627) where they cross property that will be retained by Alta Lakes, LLC.
- An easement will be reserved by Alta Lakes, LLC for the Gold King Pipeline as it crosses Non-Federal Parcel E4.
- A Special Use Permit (SUP) will be issued to Alta Lakes, LLC for its continued use of the Turkey Creek Lake Pipeline, Alta Pipeline and Alta Reservoirs No. 1, 2 and 3.
- All mineral estate associated with the non-federal parcels will be conveyed to the United States. In the case of the mineral estates associated with Parcels A, B, D, and E, conveyance to the United States will happen concurrent with, but separate from, the land exchange.

My decision for the federal lands exchanged into private ownership includes the following uses and recognized interests:

- A trail reservation for the Elk Creek Trail (NFST 421.1A) will be retained by the United States for public foot and horse access across the Wilson Mesa parcel (Parcel 4), which is currently managed to allow these uses.
- A road reservation for the Alta Lakes Road (NFSR 632) will be retained by the United States for public access across the Alta parcel (Parcel 3C).
- A road reservation for the Boomerang Road (NFSR 627) will be retained by the United States for public access across the Alta parcel (Parcel 3D).
- A trail reservation for the Alta Lakes Trail (NFST 511) will be retained by the United States for public access across the Alta parcel (Parcel 3D).
- A trail reservation for NFST 514 (un-named trail) will be retained by the United States for public access across the Alta parcel (Parcel 3D).
- A trail reservation for NFST 515 (un-named trail) will be retained by the United States for public access across Federal Parcel 2.
- The Non-Federal Parties will offer an easement to Vincent Mai to replace the Private Road Easement, New Mexico Principal Meridian, T42N, R9W, Section 20: SE ¼ NW ¼, issued to Vincent A Mai dated June 2, 2006 for Federal Parcel 2. Said easement would authorize those rights, privileges and obligations currently authorized by the Forest Service Private Road Easement.
- The Non-Federal Parties will offer an easement to Qwest Corporation to replace the Special Use Permit issued to Qwest Corporation dated May 6, 2009 for Federal Parcel 2. Said easement would authorize those rights, privileges and obligations currently authorized by Forest Service Special Use Permit.
- The Non-Federal Parties will offer an easement to San Miguel Power Association to replace the Special Use Permit issued to San Miguel Power Association dated June 6, 1988 for the portion of power line that crosses Federal Parcels 3C and 3D. Said easement would authorize those rights, privileges and obligations currently authorized by Forest Service Special Use Permit.

- The patent that will be issued for Federal Parcel 2 would be subject to the existing Federal Highway Easement deed dated May 26, 1995 for State Highway 145.
- The patent that will be issued for Federal Parcel 3D would be subject to Section 24 of the Federal Power Act for the existing power withdrawal.
- The Non-Federal Parties will execute a suitable easement to replace the Special Use Permit issued to the Wilson Mesa at Telluride Metropolitan District dated June 24, 2005 for Federal Parcel 4. Said easement would, as a minimum, authorize those rights, privileges and obligations currently authorized by Forest Service special use permit.
- A reservation by the United States rights-of-way for ditches and canals constructed by authority of the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945) will be included in the patents to the Non-Federal Parties.
- All mineral estate associated with federal parcels would be conveyed to the Non-Federal Parties.

My decision also includes the following details related to bike trails near Telluride (maps are located in EA, Appendix B):

- The Non-Federal Parties will grant temporary trail easements to the United States for certain mountain bike trails located on Federal Parcels 2 and 3A with the understanding that these easements will terminate once those trails are established on NFS lands. These trails would be established on NFS lands within two years after the closing of this land exchange transaction.
- 2.9 miles of existing non-system trails will be added to the NFS as an extension to NFST 515.
- 2.7 miles of new NFST will be constructed to connect existing trail segments of NFST 515 to the 2.9 miles of existing non-system segments that will be added to the system.
- 4.0 miles of non-system trails will be closed and/or reclaimed on NFS lands.

In my decision, per Public Land Order (PLO) 1378, I recommend the Secretary of Interior to revoke a mineral withdrawal for 22 acres of land on the opposite side of Highway 145 from the Sunshine Campground on lands included in the land exchange, but not needed for the administration or protection of the campground, so the mineral estate can be transferred in full to the Non-Federal Parties upon closing. Depending on timing of the land exchange in relation to the Secretary of Interior's approval of the revocation, this may result in phasing the land exchange or the need to have two separate closings with the title company. Federal Parcel 2 has been divided into 2A and 2B to allow a phased exchange to occur. Phasing the land exchange creates no environmental effects nor changes my decision, but it may affect timing of the implementation.

My decision responds to the goals and objectives outlined in the Grand Mesa, Uncompahgre and Gunnison National Forest Land and Resource Management Plan (Forest Plan), and helps move the project area towards desired conditions described in that plan (Chapter III, pages 71-73) by acquiring "lands that are valuable for National Forest Service purposes such as lands in designated wilderness areas, rights-of-ways needed to meet resource management goals, lands that provide habitat for threatened and endangered species, lands which include floodplain or wetlands, or lands having historical or cultural resources, outstanding scenic values or critical

ecosystem when these resource are threatened by change of use."

#### ***DECISION RATIONALE***

In order to be in the public interest, the resource values and public benefits of the non-federal lands must exceed those of the federal lands. Per 36 CFR 254.3 (b)(2), I have considered the opportunity to achieve better management of federal lands and resources, of meeting needs of State and local residents and their economies, of securing important objectives, including but not limited to: protecting fish and wildlife habitats, cultural resources, watersheds, and wilderness and aesthetic values; enhancing recreation opportunities and public access; consolidating lands and/or interests in lands, such as mineral and timber interests, for more logical and efficient management and development; consolidating split estates; expanding communities; accommodating existing or planned land use authorizations promoting multiple-use values; implementing Forest Plan; and fulfilling public needs. Below is a summary of my public interest considerations.

#### ***ACCESS***

My decision restores public access to the popular fourteener, Wilson Peak, on approximately one mile of the newly constructed Rock of Ages Trail (NFST 429). Acquisition of the Wilson Peak Mining Claims (Parcel A) would provide the public legal access to the entire length of the Rock of Ages Trail.

My decision grants and retains public access easements for the Alta Lakes Road (NFSR 632) and the Boomerang Road (NFST 627)

My decision retains public access on National Forest System Trails (NFST) 421.1A, 514, 515, and 511 for access by the public across private lands.

My decision assures that access easements will be provided from the Non-Federal Parties to Mr. Vincent Mai, Qwest Corporation, San Miguel Power Association and Wilson Mesa at Telluride Metropolitan District.

My decision reserves rights-of-way for irrigation ditches subject to the Act of August 30, 1890 and an existing power withdrawal to Section 24 of the Federal Power Act.

#### ***WILDERNESS AND ROADLESS***

My decision removes non-federal inholdings within the Lizard Head Wilderness and adjacent to the La Garita Wilderness to ensure protection from development of these lands. Additional parcels that will be acquired are within the San Juan Mountains Wilderness Act Bill (S. 341) area.

My decision also acquires lands within the Wilson Colorado Roadless Area and adjacent to the Hope Lake Colorado Roadless Area which will add additional management protection from timber harvest and road building.

#### ***ELIMINATE INHOLDINGS***

Inholdings (Parcels A, B, D) that are surrounded by National Forest System lands will be eliminated. This will improve manageability of the NFS lands.



### *CULTURAL RESOURCES*

My decision acquires and conveys cultural properties and mitigates the loss of cultural values through the implementation of a Memorandum of Agreement among the Federal and Non-Federal Parties, San Miguel County and the State Historic Preservation Office.

### *RECREATION*

In response to public concern, my decision includes accepting and making part of the National Forest System mountain bike trails around Telluride, Colorado. The proposed modifications to the trail system are the result of collaboration between the Forest Service, San Miguel Bicycle Alliance and Telluride Mountain Club and includes the following: adding 2.9 miles of existing non-system trails to NFST 515; constructing 2.7 miles of new NFST to connect existing trail segments of NFST 515 to non-system segments that will be added to the system; and closing/reclaiming 4.0 miles of non-system trails on NFS. My decision formalizes the trail system in this area and removes unsustainable routes. My decision supports the tourism economy and the desires of the local citizens.

### *SENSITIVE ENVIRONMENTS & HABITATS*

My decision reduces risk of future development by acquiring sub-alpine and alpine environments which is also habitat for many Forest Service sensitive species.

My decision enhances habitat for the Canada lynx, which is a federally listed species, by acquiring parcels A, B, D and E.

My decision results in a net increase of wetland and aquatic habitat for sensitive species and trout.

### *MINERALS*

Minerals will be conveyed or retained to prevent split estate issues and improve manageability of the NFS lands.

The Application to Modify or Revoke a Mineral Withdrawal is currently on file with the Bureau of Land Management to remove 22 acres of land across the highway from the Sunshine Campground so that the surface and mineral estate can be conveyed in the exchange. Due to processing times associated with this revocation, the implementation of the land exchange may be phased in regard to Federal Parcel 2. This parcel has been divided and referred to as Federal Parcels 2A and 2B in the Exchange Agreement. The withdrawal area to be revoked (2B) will be exchanged when the revocation is approved by the Secretary of Interior. This phased implementation does not alter my decision or the analysis presented in the EA.

### *WATER RIGHTS AND WATER RESOURCES*

Water rights and water resources are a concern of the Non-Federal Parties and neighbors of the land exchange, more specifically between Skyline Ranch Trust, LLC, and Vincent Mai. Water rights analysis conducted because of the proposed land exchange identified several water facilities that occupy NFS land without authorization. The water rights associated with these facilities are owned by Skyline Ranch Trust, LLC, Alta Investments, LLC, and Vincent Mai. Parts of Hiker Lake and Beaver Springs Pond lie on NFS land within Federal Parcel 2 which, if conveyed as part of this exchange, will become land owned by Skyline Ranch Trust, LLC. There

are unresolved disputes among the two parties that have led to requests of the Forest Service to protect their interests. The disputes center around 1) who owns water rights in which facilities, 2) who does and should have access to these facilities, 3) whether one party or the other will take action to modify Beaver Springs Pond, and 4) what actions the agency should take to protect their interests.

My analysis and decision rationale follow:

Water Rights Ownership. While both parties assert they own the sole water rights associated with Beaver Springs Pond<sup>2</sup>, our analysis<sup>3</sup> has identified both parties own water rights.<sup>4</sup> The importance of water rights ownership in this land exchange is related to whether the associated water facilities would require authorization on NFS land and, if so, what that would imply.

First, there is no responsibility of the agency to protect unauthorized uses of NFS land in a land exchange. Second, even if there were an authorization in place, “protection” would not be guaranteed as desired by the parties. That scenario would appear as follows. The authorization for a part of a reservoir (Beaver Springs Pond) to occupy NFS land would be issued to the water rights holders. (The dam<sup>5</sup> and pipe<sup>6</sup> are on Mr. Mai’s private property and thus would not need Forest Service authorization.) Had that authorization been in place, the Forest Service could have requested the proponent (Skyline Ranch Trust, LLC) to offer a similar easement to Mr. Mai, which would authorize the upper end of Beaver Springs Pond to occupy what is now land owned by Skyline Ranch Trust, LLC. That easement alone would not protect Mr. Mai from any actions taken by Skyline Ranch Trust, LLC, to modify the pond nor would it protect Skyline Ranch Trust, LLC, from any similar actions taken by Mr. Mai on his privately-owned land. Other agencies could have a role in such actions however.

Access to Water Facilities. The portion of Hiker Lake and Beaver Spring Pond that occupy NFS land is just water (inundation); any facilities are on privately-owned land. While there is a decreed agreement in place between Skyline Ranch Trust, LLC, and Alta Investments, LLC, for use of the facilities there is no such agreement between Skyline Ranch Trust, LLC, and Vincent Mai. Because both the point of diversion for Mr. Mai’s water right and the PVC pipe through which water flows from the west side of Beaver Springs Pond are located on Mr. Mai’s property, the Forest Service is unable to identify any access needs the Mr. Mai would need to any part of Beaver Springs Pond not on his property.

Actions to Modify Beaver Springs Pond. Vincent Mai expressed concerns related to the ecological value of Beaver Springs Pond. Based on surveys of resources present, my staff has found that there will be no loss of wetlands with unique ecological features or services (see EA

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<sup>2</sup> Skyline Ranch Trust, LLC, asserts that Alta Investments, LLC, also holds water rights in Beaver Springs Pond.

<sup>3</sup> The water rights analysis was conducted by Linda Bledsoe, Forest Service realty and water rights specialist.

<sup>4</sup> The State of Colorado manages and decrees water rights.

<sup>5</sup> The dam was not a designed or constructed feature; it originated as a beaver dam with material added by a prior landowner.

<sup>6</sup> The pipe does not have a valve to control water flows as most reservoirs have.



section 3.5).

Protection of the pond from future upstream diversions was also expressed as a concern by Vincent Mai. Appropriation of the water or a change in diversion points would be administered by the State. Nothing in this land exchange proposal would impact State water rights or the State's processes.

Also expressed as a concern was protection of Beaver Springs Pond should the upper end of the pond become privately owned and subject to potential modification. Even if there were a Forest Service authorization in place for the portion of the pond on NFS land and that authorization were to be replaced by an easement from the proponent, the Forest Service could only require that an easement issued by the proponent authorize the current improvements. Should that land be conveyed from federal to private ownership, while the Forest Service no longer would have authority over the pond, the State Engineer's Office, Army Corps of Engineers, and San Miguel County have rules and regulations that could protect the water rights holders' interests should modification of the pond or other facilities be proposed.

Agency Actions to Protect Interests. I have reviewed section 3.6 and Appendix E of the EA and have determined not to establish protective requirements for Beaver Springs Pond because Beaver Springs Pond is an unauthorized use, because I have no responsibility to protect unauthorized uses in this land exchange, and because a speculative scenario of an authorization in place would not yield the protection requested by Vincent Mai. I have determined that the threats to Beaver Springs Pond through either upstream diversions or modifications to the pond itself are speculative and are only related to this land exchange because the pond occupies NFS land. When the pond occupies privately-owned land, the water rights holders will have greater opportunity to establish access and easements through State laws and regulations than through those applicable to NFS lands.

#### *FUTURE USE OF FEDERAL LANDS*

The Non-Federal Parties have indicated no plans to develop the federal parcels that they will acquire and have stated their intent to establish a conservation easement on Federal Parcel 2. Nonetheless, I have considered the environmental effects of development that could occur per the zoning provisions established by San Miguel County. As determined by the County, the land exchange will yield two fewer housing development rights in the Alta area.

#### *EQUAL VALUE STATEMENT*

Appraisals were conducted, the reports were reviewed by the Regional Appraiser, and the results have been approved for agency use through January 19, 2016. A summary of the preliminary appraisal acreages and values follows in Table 3.

**Table 3. Appraisal Summary**

Exchange Metric	Non-Federal	Federal
Acres	Approximately 518 <sup>1</sup> (Non-Federal Parcels A, C, E1-5, B <sup>2</sup> )	Approximately 304 <sup>1</sup> (Federal Parcels 1-4)
Value	\$11,620,000	\$11,740,000
Cash Equalization	\$120,000 paid to U.S. Treasury <sup>2</sup>	
<b>Total</b>	<b>\$11,740,000</b>	<b>\$11,740,000</b>
<sup>1</sup> Both acreage figures may change a minor amount (less than one percent) once final survey work is complete. Supplemental Plats have not yet received final approval from Bureau of Land Management. <sup>2</sup> This cash equalization value may be adjusted slightly pending Bureau of Land Management approval of Supplemental Plats. Furthermore, the United States may receive a portion of Non-Federal Parcel D in lieu of the Non-Federal Party paying a cash balance to the U.S. Treasury.		

#### **PUBLIC INVOLVEMENT**

The proposal was listed in the Schedule of Proposed Actions (SOPA) for the period of July 1, 2013 to the present. The proposal was provided to Colorado Congressional Delegates, the Governor's Office, the Boards of County Commissioners for San Miguel, Dolores, Gunnison and Saguache Counties, the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the Ute Indian Tribe of Uintah and Ouray, special interest groups, other federal and state agencies, and interested individuals. The GMUG National Forest began scoping on the proposed land exchange on November 22, 2013 and accepted comments through January 24, 2014.

A legal notice of the proposed exchange was published in the *Dove Creek Press* (November 21, 2013 through December 12, 2013); the *Saguache Crescent* (November 28, 2013 through December 19, 2013); the *Grand Junction Daily Sentinel* (November 22, 2013 through December 13, 2013); the *Gunnison Country Times* (November 21, 2013 through December 12, 2013); and the *Telluride Daily Planet* (November 22, 2013 through December 13, 2013). The legal notice was published for four consecutive weeks to meet the requirements for a land exchange. Public open houses were held in Telluride, Colorado on December 17, 2013 and January 13, 2014. A presentation was made to the San Miguel Board of County Commissioners on January 22, 2014. The newspaper of record for the purposes of NEPA is the *Grand Junction Daily Sentinel*.

A 30 day Congressional Appropriations Committee review was initiated on April 25, 2014, and concluded on May 27, 2014.

A complete listing of contacts made and the scoping letters can be found in the project file at the Norwood Ranger District, Norwood, CO. The Forest Service received 110 comment letters regarding this project. These letters have been summarized and responded to in EA Appendix C. In response to issues concerning mountain bike trails in the Alta Lakes Area, an additional open house was held in Telluride on August 11, 2014. Following that meeting, Forest Service representatives from the Norwood Ranger District, met with representatives from the local trail advocacy organizations multiple times in the Alta Lakes area to discuss current and future trail configurations.

A comment period was held on a Preliminary EA from October 18 through November 17, 2014. Legal Notice of Opportunity to Comment was published in the *Grand Junction Daily Sentinel* on October 18, 2014. A press release was issued on October 20, 2014 asking for public input to *The Telluride Daily Planet*. Links to copies of the Preliminary EA were sent to all who had commented during the scoping period. Seven additional comments were received. These have been summarized and responded to in EA Appendix D.

My staff has had follow-up discussions regarding water issues with Proponent's attorneys, attorneys representing the Mais, other water attorneys and Assistant Division Engineer to try to come to greater understanding of the water issues for the analysis and found in the EA and reflected in my decision.

#### ***FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS***

This decision is consistent with the 1991 Grand Mesa, Uncompahgre and Gunnison National Forest Land and Resource Management Plan. The project was designed in conformance with Forest Plan forest-wide management direction and goals as summarized in section 1.6 in the final EA.

The following federal laws have specific application to this proposed action and have been addressed to insure compliance. Further information can be found in the final EA in the sections indicated.

- Clean Water Act (Section 3.1)
- Comprehensive Environmental Response, Compensation, and Liability Act (Section 3.1)
- The Endangered Species Act (Section 3.2)
- Executive Order 11988 - Floodplain Management (Section 3.5)
- Executive Order 11990 - Protection of Wetlands (Section 3.5)
- The General Mining Act of 1872 (Section 3.8)
- National Historic Preservation Act of 1966 (Section 3.7)
- The Wilderness Act (Section 3.10)

#### ***FINDING OF NO SIGNIFICANT IMPACT (FONSI)***

As the Responsible Official, I have evaluated the effects of the land exchange relative to the definition of significance established by the CEQ Regulations (40 CFR 1508.13). I have reviewed and considered the EA and documentation included in the project record. I have determined that the Wilson Peak Land Exchange and Alternatives 1-3 will not have a significant effect on the quality of the human environment. As a result, no environmental impact statement will be prepared. Per 40 CFR 1508.27, my rationale for this finding is as follows of significance cited above.

#### ***CONTEXT***

For this land exchange the context of the environmental effects is based on the environmental analysis in this EA. Land exchanges convey land, interest in land, and resources associated with them. However, the act of conveyance has no environmental effects. Therefore, the environmental analysis focused primarily on future use and management of lands acquired and conveyed and the effect of the exchange on lands that adjoin them. The lands conveyed are local

to San Miguel County, with implications for the local area only. Some of the lands acquired are within areas of national interest such as the Lizard Head Wilderness; however the lands acquired will be protected from development.

#### *INTENSITY*

Intensity is a measure of the severity, extent, or quantity of effects, and is based on information from the effects analysis of this EA and the references in the project record. The effects of this project have been appropriately and thoroughly considered with an analysis that is responsive to concerns and issues raised by the public. The agency has taken a hard look at the environmental effects using relevant scientific information and knowledge of site-specific conditions gained from field visits. My finding of no significant impact is based on the context of the land exchange and intensity of effects using the ten factors identified in 40 CFR 1508.27.

*Impacts that may be both beneficial and adverse.* A significant effect may exist even if the federal agency believes that on balance the effect will be beneficial. I considered both beneficial and adverse impacts and conclude that the impacts of the selected action are not significant in context of direct, indirect and cumulative effects.

*The degree to which the proposed action affects public health or safety.* This exchange will not affect public health or safety. See EA Section 3.1, Hazardous Materials.

*Unique characteristics of the geographic area such as the proximity to historical or cultural resources, parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.* Acquired lands include inholdings within designated wilderness areas, land adjacent to designated wilderness, net increase in wetlands, and other lands adjacent to special management areas such as roadless areas and other Congressionally designated area that are desirable to meet management goals. See EA Sections 3.2, 3.3, 3.4, 3.5, 3.7 and 3.13.

*The degree to which the effects on the quality of the human environment are likely to be highly controversial.* This land exchange is consistent with many other exchanges. There are no scientific disputes over the likely effects of the project. Therefore, I conclude that the environmental effects of the decision are not highly controversial.

The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks. The exchange is not likely to result in effects on the human environment that are highly uncertain or involve unique risk. It is similar to other past land conveyance actions that have occurred on the Grand Mesa, Uncompahgre and Gunnison National Forests. The probable effects are well understood and have been disclosed.

*The degree to which the action may establish precedent for future actions with significant effects or represents a decision in principle about a future consideration.* Neither the land exchange nor this decision will set a precedent. Similar exchanges have occurred in the past, nationally and locally. They are completed by the Forest Service and by other public land management agencies with the objective of consolidating public land ownership, while preserving the public interest. Each exchange is evaluated on a case-by-case basis and on its own individual merits. I conclude that this decision does not establish a precedent for future actions.

*Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* The EA evaluates the land exchange in the context of past, present, and

potential future actions that could lead to cumulative impacts, and no significant impacts were identified.

*The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.* The land exchange will result in two historic properties being transferred out of federal ownership. Loss of these properties will be mitigated through excavation and interpretation under agreement by the Federal and Non-Federal Parties, San Miguel County and the State Historic Preservation Office (EA Section 3.7).

*The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.* There will be no effect on listed species with this land exchange and therefore consultation with U.S. Fish and Wildlife Service is not required (EA Section 3.2 and Biological Assessment and Evaluation (project file)).

*Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.* The land exchange does not violate nor threaten to violate any federal, state, or local laws, regulations, or requirements imposed for the protection of the environment. See EA Section 1.6.

#### **ADMINISTRATIVE REVIEW (OBJECTION) OPPORTUNITIES**

This decision is subject to a predecisional objection in accordance with the provisions of 36 CFR §218 subparts A and B. Objections must be filed with the reviewing officer in writing. All objections are available for public inspection during and after the objection process. Issues raised in objections must be based on previously submitted and timely, specific written comments regarding the proposed project or activity and attributed to the objector, unless the issue is based on new information that arose after the opportunities for comment.

At a minimum, an objection must include the following: (1) Objector's name and address as defined in 36 CFR § 218.2, with a telephone number, if available; (2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection); (3) When multiple names are listed on an objection, identification of the lead objector as defined in 36 CFR § 218.2. Verification of the identity of the lead objector must be provided upon request or the reviewing officer will designate a lead objector as provided in 36 CFR § 218.5(d); (4) The name of the proposed project, the name and title of the responsible official, and the name(s) of the national forest(s) and/or ranger district(s) on which the proposed project will be implemented; (5) A description of those aspects of the proposed project addressed by the objection, including specific issues related to the proposed project; if applicable, how the objector believes the environmental analysis or draft decision specifically violates law, regulation, or policy; suggested remedies that would resolve the objection; supporting reasons for the reviewing officer to consider; and (6) A statement that demonstrates the connection between prior specific written comments on the particular proposed project or activity and the content of the objection, unless the objection concerns an issue that arose after the designated opportunities for comment. Incorporation of documents by reference is permitted only as provided for at 36 CFR § 218.8(b).



Objections, including attachments, must be filed (regular mail, fax, email, hand-delivery, express delivery, or messenger service) with the reviewing officer (see 36 CFR § 218.3 and §218.8) within 45 days of the publication of the legal notice in the *Grand Junction Daily Sentinel*. The publication date of the legal notice in the *Grand Junction Daily Sentinel* is the exclusive means for calculating the time to file an objection. Those wishing to object should not rely upon dates or timeframe information provided by any other source. Evidence of timely filing is described in 36 CFR § 218.9. Please submit objections to the Reviewing Officer at:

Mail or hand delivery:

**Maribeth Gustafson, Reviewing Officer**  
**U.S.D.A. Forest Service**  
**Rocky Mountain Region**  
**740 Simms Street**  
**Golden, CO 80401**

Fax: **303-275-5134** to the attention of Objections

The office business hours for those submitting hand-delivered objections are 8:00 AM to 4:30 PM Monday through Friday, excluding federal holidays.

Electronic objections must be submitted in a format such as an e-mail message, plain text (.txt), rich text format (.rtf), or MSWord (.doc). In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Email: [r02admin-review@fs.fed.us](mailto:r02admin-review@fs.fed.us)

#### ***IMPLEMENTATION DATE***

Implementation of this land exchange will not occur for a minimum of 50 days (45 day objection period opportunity and five day stay if no objection is received) following publication of the legal notice of objection in the *Grand Junction Daily Sentinel*, Grand Junction, CO. If an objection is filed, the reviewing officer's response is due within 45 days (can be extended up to 30 more days). Implementation may begin immediately after the response.

At the time of this draft decision, it is uncertain whether or not this will be a phased implementation with regard to the revocation for a portion of Federal Parcel 2. If so implementation of the exchange of that parcel would occur at two separate times. The Forest Service is awaiting the Secretary of Interior approval on the request to revoke that portion of the Sunshine Campground withdrawal that lies within Federal Parcel 2. If that decision is not made in a timely manner, then the Forest Service will complete this land exchange in two phases. The second phase will include the 21.9-acre withdrawal area and a combination of non-federal land and cash necessary to equalize values be implemented upon withdrawal revocation.





## CONTACT

For additional information concerning this decision contact:

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Scott G. Armentrout  
Forest Supervisor

Date

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